

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC	)	CASE NO. 1:19-cv-145
4800 140th Avenue N.	)	
Suite 101	)	JUDGE
Clearwater, FL 33762,	)	
	)	<b><u>VERIFIED COMPLAINT</u></b>
Plaintiff,	)	
	)	
v.	)	
	)	
SOUTH UNIVERSITY OF OHIO, LLC	)	
a/k/a DC SOUTH UNIVERSITY OF OHIO,	)	
LLC dba SOUTH UNIVERSITY	)	
4743 Richmond Road	)	
Warrensville Heights, Ohio 44128	)	
	)	
Serve also:	)	
c/o Corporation Service Company,	)	
Statutory Agent	)	
50 West Broad Street, Suite 1330	)	
Columbus, OH 43215	)	
	)	
and	)	
	)	
DCEH EDUCATION HOLDINGS, LLC	)	
c/o Corporation Service Company	)	
Statutory Agent	)	
8825 N. 23rd Avenue, Suite 100	)	
Phoenix, AZ 85021	)	
	)	
and	)	
	)	
ARGOSY EDUCATION GROUP, LLC	)	
601 S. Lewis St.	)	
Orange, CA 92868	)	
	)	
Defendants.	)	

Plaintiff Digital Media Solutions, LLC (“DMS”), by and through undersigned counsel, for its Complaint against Defendants DCEH Education Holdings, LLC (“DCEH”), South

University of Ohio, LLC (“SUO”), and Argosy Education Group, LLC (“Argosy”) states as follows:

## **INTRODUCTION**

1. DMS, founded by a team of lifelong athletes, specializes in helping its clients accelerate their growth by deploying diversified and data-driven digital media customer acquisition solutions. DMS provided those services generally, and student lead generation specifically, to DCEH and some of its subsidiary entities, including SUO and Argosy. It invoiced DCEH and its subsidiaries, including SUO and Argosy, a total of \$252,737, which remains unpaid.
2. DMS brings this action for breach of contract, on account, unjust enrichment, and to appoint a receiver over DCEH and its subsidiaries to ensure an orderly wind down of those entities for the benefit of their creditors, including DMS, and all other interested parties.

## **PARTIES**

3. DMS is a Delaware limited liability company. Its members consist of:
  - a. Prism Data, LLC, a Delaware limited liability company with its principal place of business in New York. The members of Prism Data, LLC are the following individuals: Joseph Marinucci (a resident of Florida); Fernando Borghese (a resident of Pennsylvania); Matthew Goodman (a resident of Florida); and Luis Ruelas (a resident of New Jersey);
  - b. CEP V-A DMS AIV Limited Partnership, a limited partnership organized under the laws of the State of Delaware with its principal place of business in Toronto, Ontario; and

c. CEP V DMS US Blocker Company, a corporation incorporated under the laws of the State of Delaware with a principal place of business in Toronto, Ontario.

4. SUO is an Arizona nonprofit limited liability company with its principal place of business in Cuyahoga County, Ohio. SUO's sole member is South University Savannah, LLC. South University Savannah, LLC's sole member is DCEH South University, LLC. DCEH South University, LLC's sole member is DCEH. As noted, DCEH's sole member is Dream Center Foundation, a California nonprofit corporation with its principal place of business in Los Angeles, California. Therefore, SUO is a citizen of the State of California.

5. DCEH is an Arizona not for profit limited liability company. Its sole member is Dream Center Foundation, a California nonprofit corporation with its principal place of business in Los Angeles, California. Therefore, DCEH is a citizen of the State of California. *See Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009) (holding that a limited liability company has the citizenship of its members, like a partnership).

6. Argosy is a California not for profit limited liability company. Its sole member is DCEH Argosy University of California, LLC. DCEH Argosy University of California, LLC's sole member is DCEH. As noted, DCEH's sole member is Dream Center Foundation, a California nonprofit corporation with its principal place of business in Los Angeles, California. Therefore, Argosy is a citizen of the State of California.

#### **JURISDICTION AND VENUE**

7. This Court has original diversity jurisdiction over this matter under 28 U.S.C. § 1332(a) in that this is a suit between citizens of different States and the amount in controversy exceeds \$75,000.

8. Venue is proper in this district under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims in the Complaint occurred in this district and because SUO's principal place of business is in this district.

#### **FACTS COMMON TO ALL COUNTS**

9. In January 2013, One on One Marketing, LLC ("One on One") entered into the DoublePositive Online Marketing Agreement for EDMC Institutions (the "Agreement") (attached as Ex. A) with DoublePositive Marketing Group, Inc. ("DP") and Education Management, LLC ("EDMC").

10. One on One subsequently assigned its rights and obligations under the Agreement to DMS. Likewise, EDMC subsequently assigned its rights and obligations under the Agreement to DCEH.

11. DCEH is the holding company for SUO and two university systems: Argosy Universities and a group of Art Institutes (collectively, the "Universities"). Argosy is the parent company for the Argosy University system.

12. The Universities primarily serve what might be deemed non-traditional students like unemployed (or underemployed) adults who are seeking to obtain particularly marketable job skills to gain new careers with higher wages.

13. Pursuant to the Agreement, DMS agreed to generate for DCEH, SUO, Argosy and others identity and contact information for prospective students for the Universities. In other words, DMS agreed to source leads for DCEH and its affiliates.

14. DMS did so. During the course of the Agreement, DMS generated many leads for DCEH and the Universities. Specifically, DMS generated leads for SUO and Argosy.

15. Under the Agreement, DCEH agreed to pay DMS fees for each qualified lead that DMS generated and the reasonable billing rates of DMS.

16. DCEH agreed to pay DMS's invoices within 30 days.

17. Between August 2018 and November 2018, DMS issued 21 invoices to DCEH and the Universities. These invoices total the sum of \$252,737.

18. Despite DMS's demand for payment, DCEH and the Universities have failed to pay.

**COUNT ONE  
(Breach of Contract)**

19. DMS incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully rewritten.

20. DCEH contracted with DMS for the generation of lead information, which constitutes a binding and enforceable agreement between the parties.

21. DMS performed all of its obligations under the contract.

22. DMS issued many invoices to DCEH to collect payment, but it has not received payment for the last 21 invoices.

23. To date, DCEH and the Universities have a balance due and owing of \$252,737.

24. Despite demand for payment, DCEH has refused to pay DMS and therefore, it has breached the terms of the Agreement.

25. As a direct and proximate result of DCEH's breach, DMS has been damaged in the amount of \$252,737, plus interest, costs, and expenses.

**COUNT TWO**  
**(Balance Due on Account)**

26. DMS incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully rewritten.

27. DCEH owes DMS the sum of \$252,737 on account for the lead generation services provided by DMS to DCEH.

28. DMS has demanded payment on account but, to date, DCEH has refused to pay the balance due and owing.

29. As a direct and proximate result of DCEH's breach, DMS has been damaged in the amount of \$252,737, plus interest, costs, and expenses.

**COUNT THREE**  
**(Unjust Enrichment)**

30. DMS incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully rewritten.

31. At DCEH's request and for its benefit and the benefit of Argosy and SUO, DMS provided services (lead generation) to DCEH, Argosy, and SUO.

32. DCEH, Argosy, and SUO have knowledge of these benefits.

33. Retention of these benefits by DCEH, Argosy, and SUO without payment to DMS would be unjust.

34. As a direct and proximate result of DCEH's breach, DMS has been damaged in the amount of \$252,737, plus interest, costs, and expenses.

**COUNT FOUR**  
**(Appointment of a Receiver)**

35. DMS incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully rewritten.

36. This Court has the power to grant ancillary relief, including the appointment of a receiver.

37. This Court has the power to appoint a receiver whenever such appointment is deemed necessary. Here, a receivership is warranted because it is the only mechanism that serves to protect all interested parties: specifically the students who would otherwise face suddenly shuttered schools, creditors who would otherwise face recovering far less as the enterprise value is destroyed, and taxpayers who would otherwise face the burden of tens of millions of dollars of canceled student loans arising out of suddenly shuttered schools. The key to protecting the students, creditors, and taxpayers revolves around DCEH schools remaining eligible to receive Title IV monies to be used to pay operating expenses, pay creditors, and provide the educational services to the students. A bankruptcy would end that eligibility, resulting in exceptional and immediate harm to the students, and the inability of the enterprise to maximize its value for the benefit of its creditors, students, and other interested parties. A Receivership, however, would allow the valuable assets to be sold at non-distressed prices, a proper teach-out for the students, and appropriate wind-up of the dozens of entities owned by DCEH, including SUO and Argosy.

38. DMS believes that DCEH, its related subsidiary entities, the students at the Universities, and the creditors of DCEH and the Universities will suffer immediate and irreparable harm unless a receiver is immediately appointed.

39. DMS urges the Court for the immediate appointment of Mark Dottore of Dottore Companies, LLC to serve as Receiver with the powers and authority described in the Emergency Motion for Appointment of Receiver and proposed order filed contemporaneously with this Complaint.

**WHEREFORE**, DMS prays that this Court enter judgment in DMS's favor and against DCEH, Argosy, and SUO upon the Complaint, and that it be awarded attorneys' fees and such other relief as this Court finds just and equitable.

Respectfully submitted,

*/s/ Audrey K. Bentz* \_\_\_\_\_

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*Counsel for Plaintiff*

STATE OF FLORIDA )  
COUNTY OF Pinellas )

**VERIFICATION**

I, JOE MARINUCCI, being over the age of majority and sworn according to law, say and depose as follows:

1. I am the CEO of Plaintiff Digital Media Solutions, Inc. ("DMS").
2. In my capacity as CEO of DMS, I have read the foregoing Verified Complaint, and the factual allegations contained therein are true and accurate to the best of my personal knowledge, information, and belief.



  
\_\_\_\_\_  
JOE MARINUCCI

Sworn to and subscribed before me this 18 day of January, 2019.

  
\_\_\_\_\_  
Notary Public, State of Florida